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November 9, 2017

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Notice of *Ex Parte* Presentation

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

**Re: Advanced Methods to Target and Eliminate Unlawful Robocalls, CG
Docket No. 17-59**

Dear Ms. Dortch:

On Wednesday, November 8, 2017, James Blitz and Mark Moran of Sirius XM Radio Inc. (“SiriusXM”), and Scott Delacourt of Wiley Rein LLP met, separately, with Zenji Nakazawa, Office of Chairman Pai; Travis Litman, Office of Commissioner Rosenworcel; Nirali Patel, Office of Commissioner Carr; and Amy Bender, Office of Commissioner O’Rielly. In addition, on Thursday November 8, 2017, the same group met with David Grossman, Office of Commissioner Clyburn. The purpose of the meetings was to discuss language in the above-captioned draft item (the “Draft Order”) that appears to minimize concerns about blocking of lawful calls and to suggest procedures that should be implemented to prevent lawful calls from being blocked in error and to remedy overly-broad blocking, if it occurs.

Representatives of SiriusXM explained that the Draft Order contemplates a discrete number of narrow instances in which the Commission will no longer mandate call completion. The justification offered for each of these narrow instances is that the calls in question are illegal. The Draft Order and the record also reflect that the Commission’s action likely will result in lawful calls being inadvertently blocked. Classifying and separating illegal and lawful calls is challenging and it is reasonable to expect that some error – over-blocking that impacts lawful calls – will occur. That is why some carriers have requested safe harbor protection. SiriusXM expressed concern that over-blocking is already occurring and will increase if the Commission adopts the Draft Order.

The Draft Order, as currently written, goes too far in suggesting that incidental or inadvertent blocking of lawful calls is acceptable. For example, paragraph 54 minimizes the concern by indicating there is only a “small possibility of blocking legitimate calls” and only “encourages” carriers to adopt a challenge process to ensure prompt un-blocking of numbers blocked in error. SiriusXM

Ms. Marlene H. Dortch

November 9, 2017

Page 2

suggested revising the Draft Order to reflect that call completion is the default requirement and blocking of lawful calls is a serious concern. As explained below, providing a process for un-blocking lawful calls blocked in error should be required rather than merely “encouraged.” Likewise, footnote 41 suggests that carriers can even block outside the categories of calls specified by the Commission. Sirius XM suggested revising that language as well.¹

The relief SiriusXM seeks is not intended to be punitive or to impose “gotcha” liability on carriers. Instead, the Draft Order should require a clear process for carriers to un-block lawful calls blocked in error as part of extending safe harbor liability protection to carriers for inadvertent over-blocking of lawful calls. Such an un-blocking process would include the following elements:

- **Notice.** Carriers must clearly notify callers in instances where their calls are blocked.
- **Designated Contact Person.** Carriers must identify a designated contact person to address complaints regarding unwarranted blocking.
- **Procedures and Reasonable Response Time.** Carriers must establish procedures for the Contact Person to follow in resolving complaints concerning blocking of lawful calls, including responding to and fully addressing such complaints within a reasonable period of time.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission’s rules. Should you have any questions, please contact the undersigned.

¹ SiriusXM suggests revising footnote 41 to read as follows:

“Because the rule is permissive, rather than mandatory, providers may establish their own criteria that are more restrictive than those set forth in the rule. That is, providers may define the categories of illegal calls to be blocked more narrowly than the Commission but, consistent with the call completion mandate, may not define the categories of calls to be blocked more expansively. But we encourage providers to make full use of the rule by honoring all legitimate subscriber requests that calls purporting to be from an inbound-only number be blocked.”



Ms. Marlene H. Dortch

November 9, 2017

Page 3

Sincerely,

/s/ Scott Delacourt

Scott D. Delacourt

cc (via e-mail): Zenji Nakazawa
 Travis Litman
 Nirali Patel
 Amy Bender
 David Grossman